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THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

TOMAC TRUST, ROYAL WEST PROPERTIES,
LLC, ET AL.

Plaintiff,

vs.

MILLCREEK COMMERCIAL PROPERTIES,
LLC, ET AL.

Defendant.

MOTION TO CONDUCT LIMITED
EARLY DISCOVERY BY ISSUING
SUBPOENAS

Case Number: 2:24-cv-00774-DBP

Magistrate Judge Dustin B. Pead

Comes Now Plaintiffs and moves the Court pursuant to Fed. R. Civ. P. 7 and 26(d)(1) to permission to conduct limited early discovery by issuing three subpoenas for documents. The Plaintiff and several, if not most, of the defendants have agreed to participate in a judicial settlement conference. Plaintiff is still effectuating service on certain defendants and investigating their willingness to participate in the settlement conference. In order to assist the parties in effectively negotiating and resolving this case, Plaintiffs believe it would be helpful to obtain some documents and information from certain non-parties. Plaintiffs propose sending subpoenas for documents to the following:

First American Title Insurance Company (“FATIC”)—FATIC closed several of the transactions by which Plaintiffs acquired their tenants-in-common interest in the Property. Plaintiff seek information and documents regarding the transactions closed by FATIC and its

dealings with the Defendants.

SARC USA, LLC (“SARC”)—SARC is the bankruptcy court (Case No. 2:24-bk-00631-EPB) appointed owner and holder of Neuragenex communications. Plaintiffs seek information in the possession of SARC related to the property at issue, the leases, the tenant in common ownerships sold to the Plaintiffs, and the transactions involving the defendants.

Prospect Title Insurance Agency, LLC (“Prospect”)—Prospect closed one or more transactions involving the original purchase and/or sell of the Property. Plaintiffs seek information and documents relating to the closing of the transaction, the information about the closing, and the dealings with the Defendants.

In order to facilitate a meaningful settlement conference, Plaintiffs seek to issue subpoenas to these three companies. The documents and information in possession of these three companies bear on the claims and defenses at issue in the case. Plaintiffs, the bulk of whom are elderly retirees, are trying to avoid litigation costs and expenses as much as possible. For instance, Plaintiffs have allowed the parties who are participating in the settlement conferences to file their answers and responses after the settlement conferences (if the case does not resolve). Consequently, the parties will not be immediately participating in an attorney’s planning meeting or submitting a scheduling order to the Court. However, the limited information Plaintiffs seek to request in the three subpoenas will help all of the parties understand better the facts and evidence related to the claims at issue herein. For these reasons, the Plaintiffs move the Court for permission to conduct early discovery by issuing subpoenas for documents to the above-listed companies.

Dated this 21st Day of January 2025

BLACKBURN & STOLL, LC

/s/ Brett N. Anderson
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of January, 2025, I caused to be served a true and correct copy of the foregoing **MOTION TO CONDUCT LIMITED EARLY DISCOVERY BY ISSUING SUBPOENAS** via the CM/ECF system, which automatically provided notice to all counsel of record.

/s/ Brett N. Anderson